

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

COMPASS-CHARLOTTE 1031, LLC,

Plaintiff,

-against-

PRIME CAPITAL VENTURES, LLC
BERONE CAPITAL FUND, LP
BERONE CAPITAL PARTNERS LLC
BERONE CAPITAL LLC
BERONE CAPITAL EQUITY FUND I, LP
405 MOTORSPORTS LLC f/k/a Berone Capital Equity
Partners LLC

Defendants.

Case No.: 24-cv-55
(MAD/CFH)

**DECLARATION OF
JAMES L. TUXBURY**

I, James L. Tuxbury, hereby declare the following under penalty of perjury, pursuant to 28 U.S.C. § 1746:

1. I am an attorney duly admitted to practice before this Court *pro hac vice*. Dkt. Nos. 34, 55.

2. I am also a partner with the law firm of Hinckley, Allen & Snyder LLP, attorneys for Plaintiff, Compass-Charlotte 1031, LLC (“Plaintiff” or “Compass-Charlotte”) in the above-referenced matter.

3. I respectfully submit this declaration in support of Plaintiff’s Memorandum of Law in Opposition to Defendant Prime Capital Ventures, LLC’s Emergency Motion for Stay of Order Appointing Receiver.

4. Attached hereto as Exhibit A is a true and correct copy of the Demand for Arbitration, submitted by Prime Capital Ventures, LLC (“Prime”) against Compass-Charlotte on January 24, 2024 to the Judicial Arbitration and Mediation Services, Inc.

5. Attached hereto as Exhibit B is a true and correct copy of email correspondence,

dated February 2, 2024 through February 6, 2024, between Will Esser (as counsel for Compass-Charlotte) and Pieter Van Tol (as counsel for Prime) regarding the Parties' good faith negotiations in the selection of a potential arbitrator.

6. Attached hereto as Exhibit C is a true and correct copy of email correspondence, dated February 2, 2024, from Pieter Van Tol (as counsel for Prime) informing the Parties that the Federal Bureau of Investigation executed search warrants on Kris Roglieri and Kimberly Humphrey (among others).

I declare under penalty of perjury that the foregoing is true and correct.

DATED: February 7, 2024
Albany, New York

By: /s/ James L. Tuxbury
James L. Tuxbury, Esq.